

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, August 6, 2003, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEBERS IN ATTENDANCE: Jon Carlson, Steve Duvall, Gerry Krieser, Roger Larson, Dan Marvin, Greg Schwinn, Cecil Steward, Mary Bills-Strand and Tommy Taylor; Marvin Krout, Ray Hill, Mike DeKalb, Steve Henrichsen, Brian Will, Becky Horner, Greg Czaplewski, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Greg Schwinn called the meeting to order and requested a motion approving the minutes for the regular meeting held July 23, 2003. Motion for approval made by Bills-Strand, seconded by Carlson and carried 7-0: Carlson, Duvall, Larson, Marvin, Schwinn, Bills-Strand and Taylor voting 'yes'; Krieser and Steward abstaining.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

August 6, 2003

Members present: Carlson, Duvall, Krieser, Larson, Marvin, Schwinn, Steward, Bills-Strand and Taylor.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 3410, SPECIAL PERMIT NO. 2012, SPECIAL PERMIT NO. 2023 and WAIVER NO. 03009.**

Item No. 1.2, Special Permit No. 2012, was removed from the Consent Agenda at the request of Commissioner Marvin and scheduled for separate public hearing.

Carlson moved to approve the remaining Consent Agenda, seconded by Bills-Strand and carried 9-0: Carlson, Duvall, Krieser, Larson, Marvin, Schwinn, Bills-Strand, Taylor and Steward voting 'yes'.

Note: This is final action on Special Permit No. 2023, unless appealed to the City Council by filing a Letter of Appeal with the City Clerk within 14 days of the action by the Planning Commission.

SPECIAL PERMIT NO. 2012
FOR A WIRELESS FACILITY
ON PROPERTY GENERALLY LOCATED
AT SO. 77TH STREET AND HIGHWAY 2
PUBLIC HEARING BEFORE PLANNING COMMISSION:

August 6, 2003

Members present: Bills-Strand, Larson, Duvall, Carlson, Krieser, Taylor, Marvin, Steward and Schwinn voting 'yes'.

Staff recommendation: Conditional Approval, as revised on August 6, 2003

Ex Parte Communications: None.

This application was removed from the Consent Agenda and had separate public hearing at the request of Commissioner Marvin.

Proponents

1. Mike Healy of The Everest Group, appeared on behalf of Alltel Communications, Inc. to answer any questions.

Marvin stated that he is all in favor of cell towers but this is to be located on a huge piece of property. Marvin noted that the city has a sign ordinance that can regulate how many signs we put in certain locations. Is there any thought to locating the tower further away from Hwy 2? Healy indicated that consideration was given to keep the tower as far south as possible to keep it as far away from the residential neighborhood to the north as possible. Another consideration in the chosen location was the plans for the church for future expansion and development on that property. The original location was further south, closer to Hwy 2, and after working with staff and providing the required setbacks for the open space corridor, the tower was moved to its current location.

Carlson inquired whether there are light poles in the church parking lot which could have been used. Healy believes that there are, but they are not the typical tall highway standard type poles, but rather more in the 20-30 ft. type range. The applicant did not believe swapping one out would necessarily fit in. Another consideration in using the light poles would have been the proximity to the residential neighborhood to the north.

There was no testimony in opposition.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

August 6, 2003

Duvall moved to approve the revised staff recommendation of conditional approval, seconded by Taylor and carried 9-0: Bills-Strand, Larson, Duvall, Carlson, Krieser, Taylor, Marvin, Steward and Schwinn voting 'yes'.

Note: This is final action unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

CHANGE OF ZONE NO. 3412

FROM R-4 RESIDENTIAL TO R-2 RESIDENTIAL,

ON PROPERTY GENERALLY LOCATED

AT SO. 28TH STREET AND SUMNER STREET.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

August 6, 2003

Members present: Bills-Strand, Larson, Duvall, Carlson, Krieser, Taylor, Marvin, Steward and Schwinn.

Staff recommendation: Approval

Ex Parte Communications: None.

Greg Czaplewski of Planning staff submitted a letter from the President of the Everett Neighborhood Association in support and a petition in support from neighbors to this area generally located at 27th & Washington, which neighborhood was also downzoned from R-4 to R-2 recently.

Proponents

1. **Gary Hejl**, 2745 Jefferson Avenue, appeared on behalf of the **Antelope Park Neighborhood Association**. This application continues the effort began last year to bring R-2 to the neighborhood. They are seeking this change to better represent the traditional and current usage of the majority of the residences in the neighborhood. They believe that the single family and duplex roles will comply with the goals of the Comprehensive Plan. This will also provide stability to the area. This is an attractive neighborhood. Most of the neighbors want to stay and they invest in their homes with the hope to stay in the future. This change of zone will lend substance to those hopes.

Hejl pointed out that the Comprehensive Plan provides some reassurance on p.F15:

The community continues its commitment to neighborhoods. Neighborhoods remain one of Lincoln's great strengths and their conservation is fundamental to this plan. The health

of Lincoln's varied neighborhoods and districts depends on implementing appropriate and individualized policies. The Comprehensive Plan is the basis for zoning and land development decisions. It guides decisions that will maintain the quality and character of the community's established neighborhoods.

p.F65:

One of Lincoln's most valuable assets is the supply of good, safe, and decent single family homes that are available at very affordable costs when compared to many other communities across the country. Preservation of these homes for use by future generations will protect residential neighborhoods and allow for many households to attain the dream of home ownership.

p.F73:

In existing neighborhoods adjacent to the Downtown, retain existing predominately single family blocks, in order to maintain the mix of housing types. The current mix within each neighborhood provides ample housing choices. These existing neighborhoods have significantly greater population and residential densities than the rest of the community. Significant intensification could be detrimental to the neighborhoods and be beyond infrastructure capacities. Codes and regulations which encourage changes in the current balance of housing types, should be revised to retain the existing character of the neighborhoods and to encourage maintenance of established older neighborhoods, not their extensive conversion to more intensive uses.

At present, Hejl pointed out that one-fourth of this neighborhood is zoned R-2. The neighborhood to the east is R-2; the neighborhood across 27th Street to the west is R-2. There is not a great difference in the character and R-2 is appropriate for this neighborhood. The neighborhood association has conducted a survey and has contacted 270 property owners, 198 of which signified that they approve; 6 did not have an opinion, and 5 are opposed. Therefore, 95% of the respondents are in support of this change, and more than 71% of all the property owners are in support.

Schwinn asked Hejl why there is a need for this zone change if it is now a stable neighborhood. Hejl pointed out that R-4 would allow more intensification of density in population. He believes they have a very good balance at the present time and do not want to upset that balance. R-2 is reflective of the uses they have and will help stabilize the future. It has been zoned R-4 since 1979. One-fourth of the neighborhood was changed to R-2 last year. Franklin Heights was changed to R-2 this year and Hejl believes that the character of the neighborhood is similar. He does not see any arbitrary reason to restrict Antelope Park from that same zoning.

Schwinn pointed out that there are some lots that are already less than 5,000 sq. ft. and will be nonconforming. Hejl believes this change of zone will protect them because if there is a

disaster they would have some protection to rebuild, whereas at the present they may not be able to rebuild.

Bills-Strand inquired whether the people, especially on Sumner, are aware that when they sell their properties those buyers may have to carry additional insurance to guarantee the rebuildable situation. Hejl indicated that some of them are aware.

2. Mr. and Mrs. Bill Price, 1810 Jefferson Avenue, testified in support. They have lived in the neighborhood for over 10 years. Currently, the neighborhood is a mix of single family housing, duplexes, and tri-plexes--a very nice mix. This is a very small neighborhood. They are seeking the R-2 to maintain the character as it is today. This is a multi-use neighborhood with the church and businesses. They want to maintain what they have today. The houses are very small and there are a lot of elderly people in the neighborhood and they would like to protect those homes.

3. Dell Darling, 2932 Arlington, testified in support. He would love to keep the character of the neighborhood just as it is and he believes this change will facilitate that.

4. Britt Miller, 2840 Garfield, 10 year home owner in Antelope Park, testified in support. One of the considerations every homeowner looks at before making any major investment in their house, remodeling, etc., is the zoning and the stability and integrity of the character of the neighborhood. He believes that this change is going to enhance the character, integrity and stability of this neighborhood.

There was no testimony in opposition.

Staff questions

Bills-Strand noted that there are two tri-plexes in this area. What is going to happen if they are destroyed by fire or storm? Greg Czaplewski of Planning staff advised that right now, under R-4 zoning, and even R-2 zoning, those would be nonconforming uses. His assumption, under R-4 zoning, is that as a nonconforming use, if destroyed beyond 60% of the value, the tri-plexes would have to be restored in conformity with the zoning ordinance. They would no longer be able to be 3-family. They would have to be single family/two-family. The R-2 has a provision that treats multiple family as nonstandard rather than nonconforming.

Ray Hill of Planning staff added that nonstandard relates to lot area and setbacks. A tri-plex or any multi-family is a nonconforming use in either R-4 or R-2. If the zoning is changed to R-2, the tri-plex gets some type of exception that they don't get in the R-4.

Bills-Strand recalled discussing the nonstandard versus nonconforming during the Emerald Heights downzoning. How does this differ? Hill stated that it does not differ. Nonconforming uses would be treated the same as any other district changed from R-4 to R-2.

Bills-Strand then referred to the north side of Sumner where there are very narrow lots. Hill suggested that to be a nonstandard issue relating to setbacks and lot area. They are nonstandard under R-4 or R-2. As nonstandard, if they were to be rebuilt, they would have to meet the setback requirements. If they are meeting setbacks now, even though the lot is smaller than minimum, they would be able to build in the same footprint. Bills-Strand believes there are less setbacks in the R-4. Hill advised that the R-4 and R-2 have the same front, side and rear yard setbacks. Changing from R-4 to R-2 zoning does not change the yard requirements.

Steward stated that he will support this change primarily because it is surrounded, more or less, by other R-2 zoning actions from previous times. He further noted, however, that there are more and more of these requests coming forward from inner city neighborhoods. He is pleading for the Planning Department to give the Commission some more guidance. In the face of continuing spread at the edges of the city, there is a certain logic which says we should be downzoning instead of upzoning in portions of the city. Where those portions are located, however, he was not prepared to say. If the Commission continues to get these downzone requests, the Commission does not have a good basis for making the decision on one neighborhood or one small part of a neighborhood. He believes we run the risk of having unintended consequences in other parts of the city. Because of an interpretation used by the applicant from the Comprehensive Plan, he believes there is a danger of interpreting "neighborhood" to mean only single family residences. We need to be cautious that neighborhoods are made up of many different people living in all sorts of structures and types of housing.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

August 6, 2003

Steward moved approval, seconded by Taylor.

Taylor thinks it is interesting how some of these neighbors are taking charge of their future and he believes that speaks highly for an organized association. Many times we need to get a feel for the wants and needs of the community and he appreciates the testimony.

Carlson is very supportive. He thinks the neighbors are doing this because it is the best tool they have available. Maybe we need to work on some finer options. Maybe there are some design standards or intermediate zones that should be considered. Zoning, by its very nature, is not only descriptive but prescriptive. If you say it is R-4, you are prescribing that it ought to be changed to something different than it already is.

Schwinn suggested considering the history of R-4 zoning and where it came from. A lot of it had to do with people subdividing their basements to add extra living quarters, especially after the war. He wonders if R-4 zoning is even relevant to our community anymore. Maybe we should have a better concept in planning when making these changes. A lot of the newer neighborhoods are zoned R-3, which allows closer setbacks on the street side and larger back yards. He will vote against this change of zone because he wants to see a larger consideration from the Planning staff. There are concerns about “smart growth” that say we want to utilize our infrastructure, and this means increasing density in existing neighborhoods. We need to look more closely at this because we have a lot of R-4 zoning.

Motion for approval carried 8-1: Bills-Strand, Larson, Duvall, Carlson, Krieser, Taylor, Marvin and Steward voting ‘yes’; Schwinn voting ‘no’.

CHANGE OF ZONE NO. 3408,
FROM O-3 OFFICE PARK AND B-2 PLANNED
NEIGHBORHOOD BUSINESS TO H-4 GENERAL COMMERCIAL;
and
SPECIAL PERMIT NO. 2022,
FOR A PLANNED SERVICE COMMERCIAL CENTER;
and
USE PERMIT NO. 134A,
TO ALLOW A PLANNED SERVICE COMMERCIAL CENTER,
ON PROPERTY GENERALLY LOCATED AT
SOUTH 27TH STREET AND YANKEE HILL ROAD;
and
CHANGE OF ZONE NO. 3409,
FROM AG AGRICULTURAL TO B-2 PLANNED
NEIGHBORHOOD BUSINESS,
and
USE PERMIT NO. 149,
FOR A COMMERCIAL CENTER,
ON PROPERTY GENERALLY LOCATED
AT SOUTH 27TH STREET AND GRAINGER PARKWAY.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

August 6, 2003

Members present: Bills-Strand, Larson, Duvall, Carlson, Krieser, Taylor, Marvin, Steward and Schwinn.

Staff recommendation: Approval

ExParte Communications: Dan Marvin reported that he had a conversation with the applicant.

Proponents

1. Kent Seacrest appeared on behalf of **Ridge Development Company and Southview, Inc.** These proposals are for the northeast and northwest corners of 27th Street and Yankee Hill Road. The northwest corner is already zoned O-3 and B-2. The proposal basically keeps the O-3 and changes the B-2 into H-4 to permit auto dealerships. The west side is then proposed to be designated as B-2, which would then be the neighborhood center and services.

Seacrest reminded the Commission that both of these corners were in front of the Commission during the recent Comprehensive Plan Annual Review and this Commission unanimously recommended both of these reconfigurations, along with commercial further to the south.

With regard to the waiver of the front yard requirement, Seacrest pointed out that the proposal shows front yards up against all the public streets; however, the proposal shows a common parking lot with multiple buildings around that parking lot, and the parking lot is an outlot. The parking is to be shared with a business association. In order to make that outlot, they end up with a building site virtually having no front yard as they abut the parking lot or private roadway. This is a layout that is allowed and staff thought it rational in this case.

Seacrest then addressed the waiver request to reduce the front yard along South 27th Street from 50' to 40'. While the Comprehensive Plan calls for the public way corridor to be 120' right-of-way, it also calls for 130' near the intersections to allow dual left turn lanes. The dilemma is that we have not put those standards into the ordinances and design standards so it is not real clear how it is to be handled when the city wants additional right-of-way. Seacrest pointed out that the 40' has been allowed in almost every commercial center in the last 10 years.

Seacrest advised that they did have neighborhood meetings, which were not well attended, and he believes the applicant addressed any and all concerns that were raised.

Seacrest then submitted motions to amend the conditions of approval on Special Permit No. 2022, Use Permit No. 134A and Use Permit No. 149. The motion to amend adds Condition #1.1.12 to Special Permit No. 2022, concerning the design standards for the buildings. They do have buildings with double fronts on the street and the common parking area and staff wanted to be sure there was not an ugly back side. Condition #1.1.12 is an attempt to note on the plan such things as the brick, stone, cultured stone, etc. The buildings will be dressed up. This same condition is proposed to be added as Condition #1.1.14 on the Use Permit No. 134A, and also as Condition #1.1.11 on Use Permit No. 149.

With regarding to the landscaping up against the residential neighborhood on the B-2 side, the applicant has agreed with staff to double the trees, which is the proposed amendment to Condition #1.1.2 on Use Permit No. 149. The proposed amendment to Condition #1.1.4 on Use Permit No. 149 deletes the sidewalk connection from Lot 4 to the drive entrance at Grainger Parkway. Staff thought that Lot 4 should have a connectivity to the “big box”, but there is another sidewalk that provides sufficient access. Staff has agreed that it would be redundant for sidewalks to be so close to one another.

Seacrest believes that staff agrees with the proposed amendments.

There was no testimony in opposition.

Brian Will of Planning staff agreed with the proposed amendments to the conditions of approval.

Steward referred to the added condition regarding the building materials and wondered why they would allow synthetic stucco on this list. Seacrest stated that the synthetic stucco is only allowed on a building over 30,000 sq. ft. The proposed building must meet the speculations of a national car dealer and their prototype for their buildings across the country is a white looking building. It is a situation that they checked out and tried to talk with the national company but they would not “bend” their rules.

CHANGE OF ZONE NO. 3408**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

August 6, 2003

Bills-Strand moved approval, seconded by Duvall.

Carlson believes the developer did a good job. They did their homework and it shows.

Motion for approval carried 9-0: Bills-Strand, Larson, Duvall, Carlson, Krieser, Taylor, Marvin, Schwinn and Steward voting ‘yes’.

SPECIAL PERMIT NO. 2022**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

August 6, 2003

Bills-Strand moved to approve the staff recommendation of conditional approval, with the amendments as proposed by the applicant, seconded by Duvall.

Carlson stated that he supports the motion, but he pointed out that the Comprehensive Plan does call for pedestrian connectivity and more pedestrian consideration in commercial areas. He thinks we are starting to see that and he appreciates it.

Motion for conditional approval, with amendments, carried 9-0: Bills-Strand, Larson, Duvall, Carlson, Krieser, Taylor, Marvin, Schwinn and Steward voting 'yes'.

USE PERMIT NO. 134A

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

August 6, 2003

Bills-Strand moved to approve the staff recommendation of conditional approval, with the amendments as requested by the applicant, seconded by Duvall and carried 9-0: Bills-Strand, Larson, Duvall, Carlson, Krieser, Taylor, Marvin, Schwinn and Steward voting 'yes'.

CHANGE OF ZONE NO. 3409

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

August 6, 2003

Steward moved approval, seconded by Bills-Strand and carried 9-0: Bills-Strand, Larson, Duvall, Carlson, Krieser, Taylor, Marvin, Schwinn and Steward voting 'yes'.

USE PERMIT NO. 149

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

August 6, 2003

Steward moved to approve the staff recommendation of conditional approval, with the amendments as requested by the applicant, seconded by Bills-Strand and carried 9-0: Bills-Strand, Larson, Duvall, Carlson, Krieser, Taylor, Marvin, Schwinn and Steward voting 'yes'.

ANNEXATION NO. 03005

TO ANNEX PROPERTY GENERALLY LOCATED

AT SO. 84TH STREET AND PINE LAKE ROAD.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

August 6, 2003

Members present: Bills-Strand, Larson, Duvall, Carlson, Krieser, Taylor, Marvin, Steward and Schwinn.

Staff recommendation: A finding of conformance with the Comprehensive Plan.

Ex Parte Communications: None.

Brian Will of Planning staff submitted a letter from Glen Herbert, one of the property owners being annexed, requesting postponement of annexation until October 16, 2003, for tax purposes. Will advised that annexation at any time through the end of the year is not going to make a difference in taxes.

Proponents

1. **Brian Will** of Planning staff explained that this request for annexation involves approximately 187 acres. Very recently, there has been annexation and development in this area, including Pine Lake Plaza and Pine Lake SID, which annexations have resulted in the subject property being completely surrounded by the city. thus meeting the criteria of the Comprehensive Plan for annexation. The staff recommendation is a finding that the annexation is in conformance with the Comprehensive Plan.

Opposition

1. **DaNay Kalkowski** appeared on behalf of **Andermatt, L.L.C. and Eiger Corp.**, the owners of the portion of the property being annexed located south of Pine Lake Road. In November of 2001, the owners of this property entered into a Conditional Annexation and Zoning Agreement with the city for So. 84th Street and Highway 2, which agreement outlined the infrastructure, including water, sewer, and roads, that was necessary to serve the entire area between Pine Lake Road, even south of Hwy 2, between 84th and 98th Streets. The agreement indicated that annexation of the area may be phased. Kalkowski submitted a map from the annexation agreement showing the various phases of the property. Phase one was the only area annexed at the time of the agreement. Under the annexation agreement, the city used their best efforts to construct the necessary improvements to 84th Street abutting this site by the end of 2003. This timeframe has been delayed and we're now looking at construction in the summer of 2004, with completion by the end of 2004. The annexation agreement also contemplates the construction of the section of Pine Lake Road along this site in 2004. So the improvement of both of these roads is necessary to move forward with the development of the remaining property that has not been annexed. Because of the recent annexations that have taken place, the city is proposing to proceed with this annexation. Kalkowski stated that her clients are not opposed to the ultimate annexation; however, they are requesting that the annexation of this portion be delayed until 2004, when the infrastructure that is necessary to serve the site (84th and Pine Lake Road) is proposed to be constructed. Annexation brings additional costs, including taxes. The costs are appropriate if the property can move forward with development; however, in order to develop the property south of Pine Lake Road, those improvements to the roadways are necessary. The city's revised timeframe anticipates construction in 2004, so Kalkowski believes it appropriate to delay this annexation until 2004.

Carlson inquired whether there is a specific date in 2004. Kalkowski agreed that the annexation could be moved to January, 2004. One of the major costs is the tax factor.

Larson wondered whether the Commission could make a motion to make the annexation effective on January 1, 2004. Brian Will of Planning staff suggested that the Planning Commission could take action and recommend that annexation occur on a date certain and forward that recommendation to the City Council.

Schwinn inquired where the 84th and Pine Lake Road intersection falls in the line of projects. Dennis Bartels of Public Works believes that 84th Street may very well be under contract this year but construction will not be completed until next year. He was not sure about the Pine Lake Road project, east of 84th Street.

Kalkowski suggested that the Commission could place this annexation on pending with direction that it be brought back in January of 2004 for consideration. She does not believe her clients would have a problem with it at that time. An effective date in 2004 accomplishes the same thing.

Schwinn believes the Comprehensive Plan speaks pretty clearly that once a piece of land is surrounded, the city does annex it.

Rick Peo, City Law Department, reminded the Commission that this is a Comprehensive Plan conformity issue. Whether to annex is a legislative decision of the City Council. The Planning Commission does not make the recommendation as to approval or timing--it is simply a finding in regard to the Comprehensive Plan.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

August 6, 2003

Taylor moved to find the proposed annexation to be in conformance with the Comprehensive Plan, seconded by Carlson.

Schwinn believes that the Comprehensive Plan speaks clearly on this issue and this Commission has always followed the policy pretty closely.

Larson inquired whether this motion means immediate annexation. Schwinn clarified that it means the Commission finds the annexation to be in conformance with the Comprehensive Plan. The individuals can argue the date specific with the City Council.

Motion to find the proposed annexation to be in conformance with the Comprehensive Plan carried 9-0: Bills-Strand, Larson, Duvall, Carlson, Krieser, Taylor, Marvin, Steward and Schwinn voting 'yes'.

WAIVER NO. 03008

TO WAIVE RIGHT-OF-WAY, WATER MAINS AND

DEPTH-TO-WIDTH RATIO,

ON PROPERTY GENERALLY LOCATED

AT W. STOCKWELL STREET AND S. FOLSOM STREET.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

August 6, 2003

Members present: Bills-Strand, Larson, Duvall, Carlson, Krieser, Taylor, Marvin, Steward and Schwinn.

Staff recommendation: Conditional approval of the waiver of right-of-way and water mains, and denial of the waiver of depth-to-width ratio.

Ex Parte Communications: None.

Proponents

1. Brent Braun, 3921 So. Folsom, presented the application. With the exception of probably three or four years in his 58 years, he has lived and owned this property. His original intent was to take 3921 So. Folsom and make it parallel to the property at 3915 Folsom, which forms an L-shaped property. The roadway is quite remarkable--in some areas it is 30 feet and in some areas it is less than 30 feet, and he has a garage that is 1.5 feet inside the 30 ft. right-of-way of the roadway. He would consider moving the garage east at his own expense at the time that Stockwell Street is improved. Concerning the waiver of water mains, should he decide to subdivide this property again sometime in the future, he would agree to be responsible for being sure the property got water.

In response to a question raised by the applicant, Ray Hill of Planning staff advised that the depth-to-width ratio requirement has been in the Land Subdivision Ordinance since 1959, which regulation is an effort to basically prevent the long narrow lots that would be difficult to subdivide in the future.

Braun reiterated his request for the Commission's consideration. If he should want to increase the property at 3921 Folsom to the entire length and take part of the width off of 3915 Folsom, it brings him back to the same problem – the width is not in compliance.

Schwinn clarified that this is a request to waive the right-of-way in an administrative final plat.

Carlson confirmed that the applicant is desirous of having two lots that are parallel. Braun advised that 3915 is 125' wide and 3921 is 110' side. He won't change either of the widths. 3915 runs back 45 feet. His original intent was to take the L-shaped property and make both properties parallel to one another. He has no intention to subdivide this into any kind of housing development.

Schwinn asked whether the applicant will be removing the one garage that is too close to the street. The applicant suggested that if and when Stockwell Street would be developed into a regular paved street, he would agree to be responsible for moving the garage 1.5'. He also agrees with the water issue.

2. Burdette Schoen, 815 West Stockwell, who owns the property directly west of the property in question, stated that he has no objection to the waiver requests.

There was no testimony in opposition.

Staff questions

Carlson clarified that the applicant wants two lots, one 125 x 436 and one 110 x 436. Ray Hill of Planning staff referred to p.172 of the agenda, which is what the applicant is requesting to accomplish. Again, the staff's concern has to do with the lot to the south--not the lot abutting W. Stockwell. The staff believes that this subdivision, if approved in this manner, may constrain any future subdivision. With the long narrow direction east and west, if someone wanted to subdivide and move down to the area to the south, then we would be again dealing with two different property owners and that is where we have found difficulty because the two property owners are not agreeable as to design or timing of future development. The staff's recommendation looks further into the future as to how this land will someday be subdivided, and it is the staff's opinion that the way it is proposed now will restrict future subdivision of this area. The staff believes that the applicant could resubdivide by drawing the line in a different fashion and still meet the depth-to-width ratio--for example, the lot that abuts W. Stockwell could be turned into an L so that the property not abutting Stockwell would meet the 3-to-1 ratio.

Carlson inquired whether there is opportunity to do lots that face W. Stockwell. Hill's response was that if the property is subdivided in this way, the property that abuts W. Stockwell could be subdivided by lining the lots up along W. Stockwell, and then there would be no way of getting back to the lot that does not abut W. Stockwell.

Schwinn clarified that the north unit (3915) is too close to Folsom. Hill concurred. This area is part of a future annexation to provide water to the area.

Schwinn wondered whether denying the depth-to-width ratio waiver would mean the applicant cannot do the subdivision. Hill indicated that he can do the subdivision, but he will have to revise the lot lines to make the 3-to-1 ratio.

Bills-Strands believes granting the waiver creates another problem. But, Larson believes he could further subdivide and create two lots on Stockwell. Hill suggested that he could create three lots and that would take care of the ratio problem. Hill reiterated that the staff is looking further into the future as to how this land can be subdivided.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

August 6, 2003

Taylor moved to approve the staff recommendation, seconded by Carlson.

Larson thinks the staff recommendation kills the whole subdivision. Schwinn suggested that the applicant would be required to look for other ways to make it work. The way he wants to

do it would not be possible.

Carlson suggested that the applicant could just make a third lot in back of both of them. Bills-Strand added that he would not have to sell it off.

Marvin agrees that there are other ways to draw the line.

Motion to approve the staff recommendation to approve the waiver of right-of-way and water mains, and to deny the depth-to-width ratio waiver, carried 9-0: Bills-Strand, Larson, Duvall, Carlson, Krieser, Taylor, Marvin, Steward and Schwinn voting 'yes'.

COUNTY CHANGE OF ZONE NO. 215,
COUNTY MISCELLANEOUS NO. 03006,
CHANGE OF ZONE NO. 3415,
MISCELLANEOUS NO. 03005,
CITY/COUNTY MISCELLANEOUS NO. 03007,
and MISCELLANEOUS NO. 03008,
TEXT AMENDMENTS TO INCREASE APPLICATION FEES,
TO ADD APPLICATION FEES AND
TO CHANGE CERTAIN PROCESSING
PROCEDURES.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

August 6, 2003

Members present: Bills-Strand, Larson, Duvall, Carlson, Krieser, Taylor, Marvin, Steward and Schwinn.

Staff recommendation: Approval.

Ex Parte Communications: None.

Proponents

1. Ray Hill of Planning staff presented the proposal to increase application filing fees and proposed amendments to certain procedures. The purpose of the increase in fees is to help offset the cost of reviewing and processing the applications through the Planning Department. This increase will not have a significant impact on the cost of housing and development in the community.

As a general rule, the filing fees are proposed to be increased by 25%. In the County Zoning Resolution, a fee is proposed to be added that deals with the postponement of items that require additional advertising and property owner notification. This will help offset the costs of sending out an additional notice to the residents and the publishing of the legal ad.

With regard to the County Subdivision Resolution, a fee has been added for requests to amend the text of the resolution. If someone wants to change the written law of the County Subdivision Resolution, they would pay a fee.

With regard to the City Zoning Ordinance, the proposal includes an increase in the filing fees of approximately 25%. The proposal also eliminates the sections in the O-3, B-2, B-5 and I-3 districts that require a combination special permit/use permit.

With regard to the City Land Subdivision Ordinance, the proposal attempts to streamline development, changing the procedures such that all final plats are approved by the Planning Director as opposed to coming before the Planning Commission. This will save time in the processing of final plats. Once the conditions have been completed and the sureties posted, the Director of Planning can immediately sign it and it can be filed with the Register of Deeds. At the present time, there is at least a 10 day delay plus the 14 day appeal period before final plats can be approved.

A change initiated by the Parks Department removes the requirement for a landscape plan to be submitted with the preliminary plat. The landscape plan would be required to be submitted with each of the individual final plats instead.

In the Land Subdivision Ordinance, a fee has been added for waiver requests and requests for street name change, which is an extensive process. Likewise, a fee is proposed for any type of postponement that requires a new legal ad and additional notice to property owners.

Hill amended the proposal by indicating that the proposed method to allow waivers as set forth on p.197 and 204 of the agenda (p.7 and 14 of the text on Chapter 26.11) would fall under a different section of the Land Subdivision Ordinance which was not advertised. These two amendments will come forward on August 20th.

With regard to the proposed fee for Comprehensive Plan Amendment requests, Hill advised that these amendments require a lot of staff review and preparation, and they are presented to the Planning Commission, City Council and County Board.

The proposal to amend Title 14 will help speed up the process for vacating a street. The petition to vacate will be filed with the Planning Director, routed to other agencies for review with the same timeline as other applications. In the past, there has never been a public notice to the surrounding neighbors of the public hearing on a street vacation and this amendment proposes to do that.

Steward expressed concern about the fee for Comprehensive Plan Amendment requests. It is not clear to him where a couple of potential requests for revisions could come from and how they would be treated. What happens if a Planning Commissioner requests that an

amendment be processed? Hill advised that it would be the staff recommendation that the Commission is exempt from a filing fee. Steward suggested that the other potential entity is a neighborhood group or a group of private citizens rather than a developer or public agency. Hill suggested that a neighborhood group or private citizen would be treated as the applicant and would be required to pay the fee.

Larson was interested in the total financial impact for the Department. Hill stated that he does not know for sure. The filing fees were increased back in 1999, which did not generate the additional revenue anticipated. Part of this is to help catch up on that revenue. Marvin wondered how we missed the mark so much if the fees were doubled in 1999. Hill's response was that the amount of fees that would be collected was underestimated.

Steward returned to the Comprehensive Plan Amendment request issue. By treating a group of citizens as an individual applicant, he is afraid there is going to be an unintended consequence. He believes it will politicize engagement of this Commission because the first attempt will be to get a Commissioner to sponsor a change to the Comprehensive Plan. He is not comfortable with that. Hill pointed out that individuals and groups are required to pay for change of zone applications just like any other applicant, developer, etc.

Schwinn inquired whether there is a cost analysis system in place in order to gauge what it costs to run an application through the system. Hill indicated that there was not a cost analysis system in place because each and every project has a whole lot of different issues that have to be considered. The fixed costs are the letter notices and legal ads. The rest depends upon the complexity of the project, including attendance at neighborhood meetings, night meetings, meetings with developers, public hearings, etc. These proposed fees do not even come close to the cost involved in staff review. Schwinn commented that, in general, the Planning Department represents the public interest. And Hill suggested that to be the reason why the fees are not based upon the actual hours spent on a project.

Carlson inquired whether a Council member could bring forward a Comprehensive Plan Amendment. Hill believes that anyone who is administering the Comprehensive Plan can make application. Rick Peo of the City Law Department referred to language in the City Charter, which provides that the Planning Director is the responsible for preparing the Comprehensive Plan and any amendments submitted, including those submitted by the City Council. Beyond that, any individual Council member or other agencies do not have the ability to demand that an amendment be proposed or submitted. We have expanded that concept by allowing individuals to request an amendment, but that is not mandated by the City Charter. This proposal adds the cost of advertising and processing to be paid by those requesting the amendment, but governmental bodies would be a different classification. Peo also pointed out that individuals have always had the option, during the Annual Review, to come forward and move to amend the Planning Director's recommendation. This proposed concept allows that to be processed more orderly. The public is not denied the opportunity to present their

views. In the past, we have never required anyone to pay to process a Comprehensive Plan Amendment, and now we are asking for individuals to pay a fee to help pay for the process.

Carlson agrees that we do not want people lobbying the Commission to bring amendments forward. Could they contact the Council and ask them to bring it forward? Peo stated that if the entire Council voted to bring an amendment forward, it would happen.

There was no testimony in opposition.

Carlson had a concern about notification of administrative actions. Is it possible to devise a policy where if someone has spoken on a preliminary plat, that they be added to a mailing list to be notified when the final plat is in process or going to be approved. If something changes between the preliminary plat and the final plat, how would an aggrieved person know? Hill advised that, by law, a final plat can only be approved if it is found to be in substantial compliance with the approved preliminary plat. The decision was made when the preliminary plat was approved, and for anyone to then change that final plat so that it does not conform, then the Planning Director cannot approve it. Carlson was a little concerned about "substantial compliance", and he believes it is important that someone have the opportunity to know if something has changed. Hill advised that the ultimate intent is to list all applications in process on the website, but at the present time, we do not have that capability. Hill also pointed out that there are many applications that the Planning Director approves administratively now. The Director has authority to approve administrative amendments to special permits, use permits and community unit plans under certain guidelines. It is at the discretion of the Director. For example, there was a special permit for liquor sales just recently which the Director has been asked to approve administratively; however, he chose not to because he believed it needed to have the opportunity for public input. Carlson stated that he is not in any way trying to refute the reputation of the Planning Department, but he wants the public to have an opportunity to know about it. Hill also pointed out that there is no legal notice on final plats now, except that they are listed on the agenda.

Carlson confirmed that the landscape plan amendment only pertains to plats. Hill concurred. Landscape plans will still be required with special permits, community unit plans, etc.

Carlson referred to p.221 of the agenda, the amendment to 26.33.110 regarding waivers and appeals, specifically the requirement to pay a fee to appeal "one or more conditions of approval to the higher level of authority". Philosophically, Carlson believes there should not be a charge for someone to get in front of their elected official. Hill explained that the proposed fees are to help offset the cost of processing these applications. Whoever is making the appeal is adding more expense to the project and there is additional cost involved in processing it and there should be a fee for it.

COUNTY CHANGE OF ZONE NO. 215
(LANCASTER COUNTY ZONING RESOLUTION)

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

August 6, 2003

Steward moved approval, seconded by Krieser and carried 9-0: Bills-Strand, Larson, Duvall, Carlson, Krieser, Taylor, Marvin, Steward and Schwinn voting 'yes'.

COUNTY MISCELLANEOUS NO. 03006
(LANCASTER COUNTY SUBDIVISION RESOLUTION)

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

August 6, 2003

Steward moved approval, seconded by Krieser and carried 9-0: Bills-Strand, Larson, Duvall, Carlson, Krieser, Taylor, Marvin, Steward and Schwinn voting 'yes'.

CHANGE OF ZONE NO. 3415
(CITY ZONING ORDINANCE)

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

August 6, 2003

Steward moved approval, seconded by Krieser and carried 9-0: Bills-Strand, Larson, Duvall, Carlson, Krieser, Taylor, Marvin, Steward and Schwinn voting 'yes'.

MISCELLANEOUS NO. 03005
(CITY LAND SUBDIVISION ORDINANCE)

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

August 6, 2003

Taylor moved approval, seconded by Steward.

Carlson moved to amend 26.33.110, striking the portion dealing with the "appeal of one or more conditions of approval", seconded by Steward.

Carlson believes that people should have the opportunity to go to their elected official to appeal a condition of approval without paying an additional filing fee.

Motion to amend carried 9-0: Bills-Strand, Larson, Duvall, Carlson, Krieser, Taylor, Marvin, Steward and Schwinn voting 'yes'.

Main motion, as amended, carried 9-0: Bills-Strand, Larson, Duvall, Carlson, Krieser, Taylor, Marvin, Steward and Schwinn voting 'yes'.

CITY/COUNTY MISCELLANEOUS NO. 03007
(COMPREHENSIVE PLAN AMENDMENT FEE)

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

August 6, 2003

Bills-Strand moved to deny, seconded by Schwinn.

Bills-Strand indicated that she was struggling with this one. This creates a real political situation, whether it starts at this level or all the way to the top, as to who can get the Planning Director to bring forward the amendment for free or who has to pay.

Carlson noted that in the most recent Annual Review there were amendment requests that the Commission had already seen two, three and four times. In that circumstance the staff does generates a lot of staff hours.

Taylor stated that he will vote against the motion to deny. He does not think it is going to be that big of a deal.

Steward stated that he is not prepared to support the denial, but he still has a concern which he believes can be worked out with a minor amount of change.

Schwinn also has concerns. The Commission did see a lot of frivolous requests for changes but he also believes the Comprehensive Plan is a public document and a document that should get input from the public. He is not sure we should charge the public to give us input. He does have some concerns about this eliminating a certain portion of the public.

Duvall commented that there is no fee to get a bill before the State Legislature.

Motion to deny carried 8-1: Bills-Strand, Larson, Duvall, Carlson, Krieser, Marvin, Steward and Schwinn voting 'yes'; Taylor voting 'no'.

MISCELLANEOUS NO. 03008
(TITLE 14 - STREET VACATION PROCESS)

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

August 6, 2003

Larson moved approval, seconded by Bills-Strand and carried 9-0: Bills-Strand, Larson, Duvall, Carlson, Krieser, Taylor, Marvin, Steward and Schwinn voting 'yes'.

**COMPREHENSIVE PLAN AMENDMENT NO. 03004
TO ADOPT THE SOUTHEAST UPPER SALT CREEK
WATERSHED MASTER PLAN AND TO AMEND THE
LAND USE PLAN TO DESIGNATE LAND AS GREEN SPACE
OR AGRICULTURAL STREAM CORRIDOR ALONG
THE 100 YEAR FLOOD PRONE CORRIDOR.**

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: August 6, 2003

Members present: Bills-Strand, Larson, Duvall, Carlson, Krieser, Taylor, Marvin, Steward and Schwinn.

Staff recommendation: Approval, as revised.

Ex Parte Communications: Carlson, Steward, Marvin, Schwinn and Taylor reported that they had received telephone calls from representatives of the Friends of Wilderness Park.

Proponents

1. Nicole Fleck-Tooze of Public Works and Utilities presented additional information for the record, including two emails requesting that no text revisions be approved--that the original proposal be adopted. She also submitted a memorandum attaching revised draft revisions to the text of the Executive Summary for the Master Plan. As discussed at the last meeting, the staff has tried to work toward some revisions to include an alternative plan known as Concept C. Fleck-Tooze requested an additional two-week delay until August 20, 2003, to provide additional time to the various property owners and time for the public and the Commission to review the revised text. The staff does plan to make a presentation on the alternative Concept C at the next meeting.

Steward moved to defer, with continued public hearing and administrative action scheduled for August 20, 2003, seconded by Bills-Strand and carried 9-0: Bills-Strand, Larson, Duvall, Carlson, Krieser, Taylor, Marvin, Steward and Schwinn voting 'yes'.

Schwinn pointed out that none of the Commissioners have seen the new information prior to today so they don't even know what's on the table. Fleck-Tooze also announced that the new information would also be on the website today.

There was no other public testimony.

CHANGE OF ZONE NO. 3413

FROM R-4 RESIDENTIAL TO R-2 RESIDENTIAL,

ON PROPERTY GENERALLY LOCATED

AT NO. 24TH STREET AND SUPERIOR STREET.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: August 20, 2003

Members present: Bills-Strand, Larson, Duvall, Carlson, Krieser, Taylor, Marvin, Steward and Schwinn.

Staff recommendation: Denial.

Ex Parte Communications: Taylor reported that he had received two telephone calls.

The Clerk announced that the applicant had previously submitted a written request for deferral until August 20, 2003.

Proponents

1. **Carol Brown** testified on behalf of the applicants and expressed appreciation to the Commission for previous deferrals. She revised her request to deferral from August 20, 2003, to September 17, 2003. The neighborhoods have met with Marty Fortney twice. They continue to work towards a resolution and she is hopeful that they will reach an agreement by the middle of September.

Larson moved to defer, with continued public hearing and administrative action scheduled for September 17, 2003, seconded by Carlson and carried 9-0: Bills-Strand, Larson, Duvall, Carlson, Krieser, Taylor, Marvin, Steward and Schwinn voting 'yes'.

CHANGE OF ZONE NO. 3414

FROM P PUBLIC USE TO O-3 OFFICE PARK

and

USE PERMIT NO. 152,

FOR FINANCIAL, MEDICAL AND OFFICE FLOOR AREA,

ON PROPERTY GENERALLY LOCATED AT

SOUTH 13TH STREET AND PIONEERS BOULEVARD.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: August 6, 2003

Members present: Bills-Strand, Larson, Duvall, Carlson, Krieser, Taylor, Marvin, Steward and Schwinn.

Staff recommendation: Deferral, revised to approval of the change of zone and conditional approval of the use permit as of today, August 6, 2003.

Ex Parte Communications: None.

Brian Will of Planning staff submitted a revised staff report and recommendation. Previously, the applicant had requested a two week delay to allow for an additional waiver to be advertised. What is now submitted is a revised recommendation from the staff taking into account that additional waiver and modifying the conclusion, recommendation and conditions of approval. The staff is now recommending approval of the change of zone and conditional approval of the use permit, including approval of the waiver requests.

Proponents

1. Brian Carstens appeared on behalf of **Gary and John VerMaas**. This is a project just south of the existing Indian Village postal substation at 15th & Calvert. It is a vacant parcel recently sold to the applicant. The northern 3 acres is already zoned O-3 and the southern tip is zoned P Public. They are requesting a change to O-3 on the southern piece with a use permit for 49,900 sq. ft. of office uses, including a bank, two-story office building and six small 2500 sq. ft. buildings.

Carstens advised that this applicant has been working with the State and Public Works for over a year and the applicant finally has access at Hwy 2 and Pioneers with turn lanes and new signalization.

With regard to the request to waive sidewalks, Carstens pointed out that because of the unsafe access for pedestrians at the southern end on the west side of 13th Street, the applicant is willing to contribute the funds to be posted with the final plat to go toward a bike path on the east side of 13th Street.

With regard to the request to waive screening for the parking lot, Carstens pointed out that the parking lot is anywhere from 12-16 feet below the pavement.

With regard to the request to reduce the setback along 13th Street from 20 feet to 10 feet, Carstens pointed out that along 13th Street, one will be looking over the tops of the single story buildings.

With regard to the sidewalk along Hwy 2 and private roadway south of Pioneers, Carstens suggested that there is no safe pedestrian access. Carstens stated that the applicant will put in sidewalk from Pioneers north to Calvert.

Carstens requested to delete Condition #1.1.4 because the roadway cross-section waiver is not necessary.

Carstens requested that Condition #3.2 be deleted and added to the conditions required to be completed at the time of occupancy.

Carstens also requested to add language to Condition #4.1 "...including the traffic signal and controller improvements at the intersection of Pioneers Boulevard and Nebraska Highway 2."

Carstens believes that staff is in agreement with the proposed amendments.

Marvin asked the applicant to speak about the signalization at Hwy 2 and Pioneers. Carstens stated that it is currently a three-legged intersection. There will be additional traffic lights on the west side of Hwy 2 for people coming out onto Hwy 2 from this project. There will be three lanes of northbound traffic all the way from 13th and Hwy 2 to Calvert, and then a new left turn lane in Hwy 2. Marvin's main concern is shortening the duration of the light for the through traffic on Hwy 2. Dennis Bartels of Public Works could not answer specifically, but as part of the process they did an impact study and looked at the signal. Since we already have commercial movement to the west, this project didn't effectively change the level of service at this intersection.

Marvin then asked whether there will be a green light or an arrow for turning left into the property. Bartels stated that without looking at the study he did not know what the assumptions were.

Marvin inquired as to whether the sidewalks are capable of carrying bicycle traffic. Carstens indicated that the bike path on the east side of 13th would be wide enough for bicycle traffic. Marvin wondered if the bikers would be able to get to Pioneers. Carstens stated that right now there is not any real pedestrian connection from this center back up to 13th. Marvin's concern is how to get onto Pioneers Blvd. Carstens believes the route would be to come on Calvert and then back down to the south.

Carlson asked about the sign envelopes. Carstens pointed them out on the map. They had originally shown a free-standing sign for the bank and staff has requested it be removed. They also had shown another sign in the island on the private roadway as an identification sign for the office center. That would be the only freestanding sign. The remainder would be wall signs.

Carlson asked about the southern tip of the property. Carstens advised that there is a detention cell in that tip. Carlson noted that previously there was some talk about trying to do some degree of aesthetics on the triangle to the southeast as a drive-by feature. Carstens stated that the detention cell is a dry cell with no standing water. Carlson inquired as to the motorist view on Hwy 2 moving north--will it be a view into the parking area? Carstens indicated that a motorist will see the parking area, but it will all be screened along Hwy 2. The detention cell is basically a depression and is not built up above the existing grade. There are

street trees all along the three streets and then a lot of shrubbery along the west side of the parking along Hwy 2. As this project moves forward, Carlson thinks it would be nice for the view-scape to be considered.

There was no testimony in opposition.

Staff agreed with the proposed amendments to the conditions of approval.

CHANGE OF ZONE NO. 3414

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

August 6, 2003

Bills-Strand moved approval, seconded by Krieser and carried 9-0: Bills-Strand, Larson, Duvall, Carlson, Krieser, Taylor, Marvin, Steward and Schwinn voting 'yes'.

USE PERMIT NO. 152

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

August 20, 2003

Larson moved to approve the revised staff recommendation of conditional approval, with the amendments as requested by the applicant, seconded by Bills-Strand.

Carlson agrees with the staff report that we have infrastructure in place and he is hoping that as this moves forward, it will have nice aesthetics.

Motion for conditional approval, with amendments, carried 9-0: Bills-Strand, Larson, Duvall, Carlson, Krieser, Taylor, Marvin, Steward and Schwinn voting 'yes'.

FINAL PLAT NO. 03014,
HANNAN ADDITION,
ON PROPERTY GENERALLY LOCATED
NORTHEAST OF THE INTERSECTION
OF SO. 66TH STREET AND PINE LAKE ROAD.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

August 6, 2003

Members present: Bills-Strand, Larson, Duvall, Carlson, Krieser, Taylor, Marvin, Steward and Schwinn.

Staff recommendation: Approval.

Ex Parte Communications: Steward indicated that he had a brief telephone conversation with the attorney for the applicant, Mark Hunzeker, to discuss information which he missed from the last hearing.

Proponents

1. Mark Hunzeker appeared on behalf of **Vic Hannan**, the owner and subdivider. In February of this year, the Planning Commission approved a change of zone from AGR to R-3 on this property and the staff report on that change of zone acknowledged several Comprehensive Plan quotations which support this type of development and stated explicitly that:

If approved, the plat would allow for a more efficient use of land, and is supported by the Comprehensive Plan. It is the type of re-subdivision anticipated to occur within older, acreage developments as they become engulfed by the city and it becomes economical to do so. The more efficient use of land also results in better utilization of municipal infrastructure.

The only reason for denial of this final plat, and the only issue associated with this final plat, is the access to Pine Lake Road for Lot 2. Access was relinquished when the Country Meadows plat was approved because this was one large single family lot. The plat seeks to provide one access for one single family home onto Pine Lake Road.

Hunzeker further pointed out that in the next 2-4 years, Pine Lake Road will be widened in accordance with the CIP and the Comprehensive Plan, and it will be a four-lane road and there will be a need to acquire right-of-way for that widening project. Hunzeker suggested that at that time, it will be a very simple matter for Public Works to consolidate the access that this applicant seeks today with the access that now serves the church immediately to the east. The church has an access that is just a few feet east of Mr. Hannan's east property line, and Mr. Hannan is willing to consolidate that access.

Hunzeker submitted a proposed condition to be added to the final plat to accomplish the access issue:

The subdivision agreement shall include restriction of access to and from Pine Lake Road for Lot 2 to one single-family dwelling, and waiver of objection to consolidating that access at the property line with the church to the east at the time of widening of Pine Lake Road.

Hunzeker believes this to be a very good solution to this problem. The addition of a single family home to the traffic on Pine Lake Road is less than a small drop in a big bucket.

Carlson pondered that the proposed amendment does not "require" the consolidation. Hunzeker suggested that if Public Works elects not to require it, it would not have to be required, but the condition also waives any objection to the consolidation of those access points and it will be incumbent on Public Works, as a part of their right-of-way acquisition, to consolidate that access point. Hunzeker then gave an example of a similar situation that exists, i.e. several single family lots will eventually take access to the stub street that exists

south of 70th & Old Cheney that serves the new Sheridan Lutheran Church site. That access stub will serve the church as well as maybe at least six lots within the Hawkswood Estates plat. This type of sharing seems adequate and workable. The only alternative on this plat was to bring a long driveway through the front yard of the existing home, and, aesthetically and practically, that really wasn't a good solution.

Hunzeker further advised the Commission that Mr. Hannan has accepted an offer to purchase that home contingent on this subdivision and that sale will not close if they have to have a driveway running through it to serve the lot behind it.

Steward inquired whether the interests of the church are affected by this condition of approval and whether this has been discussed with the church. Hunzeker stated that there has been some discussion with the church; however, it is very difficult to get this type of transaction approved with that church. There is a national organization that is very, very difficult to work through for something like this. Public Works is in a position where the existing access to the church will have to be rebuilt when the street is widened. If there is a house built on the new lot, that access would also have to be changed at the time the street is widened. This is the perfect time to do it and Public Works will have the position and power to require it.

Krieser asked whether it will be a separate drive. Hunzeker indicated that they would prefer and hope that the access point gets placed at the property line so that both parties can use it. In the meantime, assuming a house is built, there would be two access points. This property was platted as one large lot and the lot the church is on was platted as one lot with access. The relinquishment of access affected this lot and the lot across 66th Street to the west. There has never been an access to Pine Lake Road directly from this lot. It was platted that way with the thought that it was going to be a three-acre lot with a single family house. At the time this was platted, at least 15 years ago, it was not anticipated that it was going to be brought into the city and served with city utilities.

There was no testimony in opposition.

Schwinn asked staff to respond to the proposed amendment. Dennis Bartels of Public Works suggested that if the Commission votes to approve the plat, that is probably better than getting rid of the relinquishment of right-of-way. The city does have the authority to do it, but he has not been involved enough to know the increment of cost it might add to the city project. He would recommend that they provide different frontage with this lot. In the future, Bartels does not want the city put in the position of having to provide a private or public roadway to additional lots beyond the one being created now. Eliminating driveways on arterial streets is a good policy for safety and capacity reasons. That is the reason for the staff's recommendation of denial. The driveway to the church will be rebuilt at some location when the rural paving is converted to urban paving. Moving it east or west is immaterial. The church lot is not the corner lot. Its location east or west for a right-in and right-out driveway is not

critical. If this amendment is approved, the way to enforce it would be to require a common access easement along the east property line so that the city doesn't have to acquire the property.

In response to further inquiry from Taylor, Bartels stated that this lot is of sufficient size such that as land becomes available, it is not unusual to see re-subdivision of a lot of this size. There is potential for two or three single family lots in the future. Taylor asked whether staff is suggesting that instead of access being on Pine Lake Road, there should be an access further north. Bartels stated that if the access was to be handled with this subdivision, it would have to be 66th Street to the west, but he realizes that is an awkward situation.

Krieser wondered what would happen if the applicant revised the lot. Bartels indicated that they would have to apply for a driveway. If they wanted to construct a driveway under the rural cross section, they would have to pay for the culvert or pay to grind the curb if they made application after the city's street project was there.

Taylor believes this could be resolved if the applicant got an easement with the church and used their driveway. Bartels agreed--that is what Public Works had suggested. They should explore getting that common driveway now. Minimizing the number of driveways on an arterial street is a typical goal to maximize the capacity and the safety of the street. The way the lot is created for the church, there is not an effective way of eliminating that driveway. If this lot was to be created, it should be consolidated with the church driveway. The need for more driveways would only occur if this particular property were subdivided into additional lots.

Response by the Applicant

Hunzeker reminded the Commission that the language he proposed does restrict the access point to a single family house, which was done deliberately to address the issue of resubdivision, and the consolidation implies granting an easement.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

August 6, 2003

Bills-Strand moved approval, adding the following condition: The subdivision agreement shall include restriction of access to and from Pine Lake Road for Lot 2 to one single-family dwelling, and require a common access easement with the church to the east at the time of widening of Pine Lake Road, seconded by Steward.

Steward commented that this is a classic acreage issue of the build-through conversion, urbanization question and he thinks it behooves the city to be flexible and to work with the property owners and the new subdivision intent in every way possible. He believes this seems like a good alternative.

Carlson stated that he will support the motion.

Motion for approval, with the added condition of approval, carried 9-0: Bills-Strand, Larson, Duvall, Carlson, Krieser, Taylor, Marvin, Steward and Schwinn voting 'yes'.

There being no further business, the meeting was adjourned at 3:55 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on August 20, 2003.

F:\FILES\PLANNING\PC\MINUTES\2003\pcm0806.03.wpd